

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ANDRE JOHNSON,)	
)	
Petitioner,)	CASE NO. 3:06-0763
)	(CRIMINAL CASE
v.)	NO. 3:02-00121)
)	JUDGE ECHOLS
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

For the reasons set forth in the Memorandum issued contemporaneously herewith, Petitioner's "Motion to Vacate, Set Aside, Reverse, or Correct Sentence Pursuant to Title 28 United States Code Section 2255" (Docket Entry No. 1) is hereby DENIED. Petitioner's "Motion for Resentencing Upon Invalidating of Prior Conviction Used to Enhance Sentence" (Docket Entry No. 2) is also hereby DENIED. This case is hereby DISMISSED WITH PREJUDICE.

Further, a Certificate of Appealability will not issue. See Slack v. McDaniel, 529 U.S. 473, 483-84 (2000). Petitioner cannot demonstrate that reasonable jurists would find the Court's assessment of Petitioner's claim of ineffective assistance of counsel debatable or wrong because counsel's decision not to employ an expert witness was clearly a strategic choice supported by the evidence which established Petitioner was dealing in crack cocaine. Nor would a reasonable jurist find debatable or wrong this Court's rejection of Petitioner's claim that his prior state sentence was invalidated given that the alleged invalidation arose from

Petitioner's unilateral effort to transform a criminal conviction into an instrument under the Uniform Commercial Code.

It is so ORDERED.


ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE